

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RUDOLPH WILLIAM RIVERA,

Petitioner,

VS.

JAMES "GREGORY" COX, et al.,

Respondents.

Case No. 2:15-cv-00221-GMN-GWF

ORDER

Petitioner, who is a prisoner in the custody of the Nevada Department of Corrections, has submitted a financial certificate and a statement of his inmate account (ECF No. 1), which the court construes as an application to proceed *in forma pauperis* (ECF No. 1). Petitioner also has submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court finds that petitioner is unable to pay the filing fee.

15 Petitioner is in custody pursuant to a judgment of conviction of a state court. Consequently,
16 28 U.S.C. § 2254 governs this action. Petitioner has not used the correct petition form, and some
17 information that the court needs to evaluate the petition is missing. Petitioner will need to file an
18 amended petition on the correct form. Petitioner will need to re-allege all his grounds for relief, or
19 they will be waived. *See King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987). Petitioner also will
20 need to name the correct respondent, who is the warden of the prison where he is a prisoner.

21 **IT IS THEREFORE ORDERED** that the application to proceed *in forma pauperis* (ECF
22 No. 1), which the court construes from the financial certificate and inmate account statement, is
23 **GRANTED**. Petitioner need not pay the filing fee of five dollars (\$5.00).

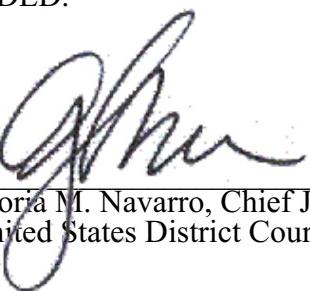
24 **IT IS FURTHER ORDERED** that the clerk of the court shall file the petition for a writ of
25 habeas corpus pursuant to 28 U.S.C. § 2241.

26 **IT IS FURTHER ORDERED** that the clerk of the court shall send petitioner a petition for
27 a writ of habeas corpus pursuant to 28 U.S.C. § 2254 form with instructions. Petitioner shall have
28 **thirty (30) days** from the date that this order is entered in which **to file an amended petition to**

1 correct the noted deficiencies. Neither the foregoing deadline nor any extension thereof signifies or
2 will signify any implied finding of a basis for tolling during the time period established. Petitioner
3 at all times remains responsible for calculating the running of the federal limitation period under 28
4 U.S.C. § 2244(d)(1) and timely asserting claims. **Failure to comply with this order will result in**
5 **the DISMISSAL of this action.**

6 **IT IS FURTHER ORDERED** that petitioner shall clearly title the amended petition as such
7 by placing the word “AMENDED” immediately above “Petition for a Writ of Habeas Corpus
8 Pursuant to 28 U.S.C. § 2254” on page 1 in the caption, and petitioner shall place the docket
9 number, 2:15-cv-00221-GMN-GWF, above the word “AMENDED.”

10 **DATED** this 17th day of June, 2015.



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Gloria M. Navarro, Chief Judge
United States District Court